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MARKETING SERVICES, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

COLLEEN SATRAGNI, an Individual;

,

Plaintiff,

vs.

DEALER MARKETING SERVICES,
INC.; JOHN PALMER; DOES 1
Through 100;

Defendants.

CASE NO. 5:15-cv-00913-JGB-SP

Judge: Hon. Jesus G. Bernal
Crtrm.: No. 1

**DEFENDANT DEALER
MARKETING SERVICES, INC.'S
ANSWER TO PLAINTIFF'S
COMPLAINT**

Trial Date: None Set

Defendant DEALER MARKETING SERVICES, INC. ("Defendant") by and through its counsel of record, hereby answers the factual allegations set forth in the Complaint filed by Plaintiff COLLEEN SATRAGNI ("Plaintiff") as follows:

1. In answer to Paragraph 1 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to these allegations and on that basis denies each and every allegation contained therein.

1 2. In answer to Paragraph 2 of the Complaint, Defendant admits that it
2 employed the Plaintiff. Except as expressly admitted herein, Defendant denies each
3 and every allegation of Paragraph 2.

4 3. In answer to Paragraph 3 of the Complaint, Defendant admits that
5 Defendant John Palmer is, and at all relevant times was, the President and Chief
6 Executive Officer at DMS. Except as expressly admitted herein, Defendant denies
7 each and every allegation of Paragraph 3.

8 4. In answer to Paragraph 4 of the Complaint, Defendant states that the
9 paragraph contains no factual allegations, and therefore it requires no response.

10 5. In answer to Paragraph 5 of the Complaint, Defendant states that the
11 paragraph contains no factual allegations, and therefore it requires no response.

12 6. In answer to Paragraph 6 of the Complaint, Defendant is without
13 sufficient knowledge or information to form a belief as to these allegations and on
14 that basis denies each and every allegation contained therein.

15 7. In answer to Paragraph 7 of the Complaint, Defendant is without
16 sufficient knowledge or information to form a belief as to these allegations and on
17 that basis deny each and every allegation contained therein.

18 8. In answer to Paragraph 8 of the Complaint, Defendant denies each and
19 every allegation contained therein.

20 9. In answer to Paragraph 9 of the Complaint, Defendant denies each and
21 every allegation contained therein.

22 10. In answer to Paragraph 10 of the Complaint, Defendant states that the
23 paragraph contains no factual allegations, and therefore it requires no response.

24 11. In answer to Paragraph 11 of the Complaint, Defendant denies each and
25 every allegation contained therein.

26 12. In answer to Paragraph 12 of the Complaint, Defendant denies each and
27 every allegation contained therein.

28 13. In answer to Paragraph 13 of the Complaint, Defendant denies each and

1 every allegation contained therein.

2 14. In answer to Paragraph 14 and subparts (a)-(d), Defendant denies each
3 and every allegation contained therein.

4 15. In answer to Paragraph 15 of the Complaint, Defendant denies each and
5 every allegation contained therein.

6 16. In answer to Paragraph 16 of the Complaint, Defendant denies each and
7 every allegation contained therein.

8 17. In answer to Paragraph 17 of the Complaint, Defendant is without
9 sufficient knowledge or information to form a belief as to these allegations and on
10 that basis denies each and every allegation contained therein.

11 18. In answer to Paragraph 18 of the Complaint, Defendant is without
12 sufficient knowledge or information to form a belief as to these allegations and on
13 that basis denies each and every allegation contained therein.

14 19. In answer to Paragraph 19, Defendant states that the referenced law
15 speaks for itself, the paragraph contains legal conclusions and no factual allegations,
16 and therefore require no response. To the extent that any averments in Paragraph 19
17 are deemed to require a response, Defendant denies each and every allegation
18 contained therein.

19 20. In answer to Paragraph 20, Defendant admits that Plaintiff was hired by
20 DMS in January 2009 as an Administrative Assistant. Except as expressly admitted
21 herein, Defendant denies each and every allegation of Paragraph 20.

22 21. In answer to the first Paragraph 21 in the Complaint, Defendant denies
23 each and every allegation contained therein.

24 21. In answer to the second Paragraph 21 in the Complaint, Defendant
25 denies each and every allegation contained therein.

26 22. In answer to Paragraph 22 of the Complaint, Defendant admits that
27 Plaintiff's position was eliminated in a corporate reorganization. Except as
28 expressly admitted herein, Defendant denies each and every allegation of Paragraph

1 22.

2 23. In answer to Paragraph 23 of the Complaint, Defendant denies each and
3 every allegation contained therein.

4 24. In answer to Paragraph 24 of the Complaint, Defendant denies each and
5 every allegation contained therein.

6 25. In answer to Paragraph 25 of the Complaint, Defendant denies each and
7 every allegation contained therein.

8 26. In answer to Paragraph 26 of the Complaint, Defendant denies each and
9 every allegation contained therein.

10 27. In answer to Paragraph 27 of the Complaint, Defendant denies each and
11 every allegation contained therein.

12 28. In answer to Paragraph 28 of the Complaint, Defendant incorporates its
13 responses to Paragraphs 1 through 27 as though stated fully herein.

14 29. In answer to Paragraph 29, Defendant states that the referenced law
15 speaks for itself, the paragraph contains legal conclusions and no factual allegations,
16 and therefore require no response. To the extent that any averments in Paragraph 29
17 are deemed to require a response, Defendant denies each and every allegation
18 contained therein.

19 30. In answer to Paragraph 30 of the Complaint, Defendant denies each and
20 every allegation contained therein.

21 31. In answer to Paragraph 31 and subparts (a) through (d) of the
22 Complaint, Defendant denies each and every allegation contained therein.

23 32. In answer to Paragraph 32 of the Complaint, Defendant denies each and
24 every allegation contained therein.

25 33. In answer to Paragraph 33 of the Complaint, Defendant denies each and
26 every allegation contained therein.

27 34. In answer to Paragraph 34 of the Complaint, Defendant denies each and
28 every allegation contained therein.

1 35. In answer to Paragraph 35 of the Complaint, Defendant denies each and
2 every allegation contained therein.

3 36. In answer to Paragraph 36 of the Complaint, Defendant denies each and
4 every allegation contained therein.

5 37. In answer to Paragraph 37 of the Complaint, Defendant denies each and
6 every allegation contained therein.

7 38. In answer to Paragraph 38 of the Complaint, Defendant denies each and
8 every allegation contained therein.

9 39. In answer to Paragraph 39 of the Complaint, Defendant incorporates its
10 responses to Paragraphs 1 through 38 as though stated fully herein.

11 40. In answer to Paragraph 40, Defendant states that the referenced law
12 speaks for itself, the paragraph contains legal conclusions and no factual allegations,
13 and therefore require no response. To the extent that any averments in Paragraph 40
14 are deemed to require a response, Defendant denies each and every allegation
15 contained therein.

16 41. In answer to Paragraph 41 of the Complaint, Defendant need not
17 address Plaintiff's summary of the action. To the extent that any averment in
18 Paragraph 41 is deemed to require a response, Defendants admit that Plaintiff seeks
19 damages pursuant to FEHA. Except as expressly admitted herein, Defendants deny
20 each and every allegation of Paragraph 41.

21 42. In answer to Paragraph 42 of the Complaint, Defendant denies each and
22 every allegation contained therein.

23 43. In answer to Paragraph 43 of the Complaint, Defendant denies each and
24 every allegation contained therein.

25 44. In answer to Paragraph 44 of the Complaint, Defendant denies each and
26 every allegation contained therein.

27 45. In answer to Paragraph 45 of the Complaint, Defendant denies each and
28 every allegation contained therein.

1 46. In answer to Paragraph 46 of the Complaint, Defendant denies each and
2 every allegation contained therein.

3 47. In answer to Paragraph 47 of the Complaint, Defendant denies each and
4 every allegation contained therein.

5 48. In answer to Paragraph 48 of the Complaint, Defendant denies each and
6 every allegation contained therein.

7 49. In answer to Paragraph 49 of the Complaint, Defendant incorporates its
8 responses to Paragraphs 1 through 48 as though stated fully herein.

9 50. In answer to Paragraph 50, Defendant states that the referenced law
10 speaks for itself, the paragraph contains legal conclusions and no factual allegations,
11 and therefore require no response. To the extent that any averments in Paragraph 50
12 are deemed to require a response, Defendant denies each and every allegation
13 contained therein.

14 51. In answer to Paragraph 51, Defendant admits that Plaintiff's position
15 was eliminated in a corporate reorganization. Except as expressly admitted herein,
16 Defendants deny each and every allegation of Paragraph 51.

17 52. In answer to Paragraph 52 of the Complaint, Defendant admits that
18 Plaintiff was over forty years of age at the time her position was eliminated by
19 DMS. Except as expressly admitted herein, Defendants deny each and every
20 allegation of Paragraph 52.

21 53. In answer to Paragraph 53 of the Complaint, Defendant denies each and
22 every allegation contained therein.

23 54. In answer to Paragraph 54 of the Complaint, Defendant denies each and
24 every allegation contained therein.

25 55. In answer to Paragraph 55 of the Complaint, Defendant denies each and
26 every allegation contained therein.

27 56. In answer to Paragraph 56 of the Complaint, Defendant denies each and
28 every allegation contained therein.

1 57. In answer to Paragraph 57 of the Complaint, Defendant incorporates its
2 responses to Paragraphs 1 through 56 as though stated fully herein.

3 58. In answer to Paragraph 58, Defendant states that the referenced law
4 speaks for itself, the paragraph contains legal conclusions and no factual allegations,
5 and therefore require no response. To the extent that any averments in Paragraph 58
6 are deemed to require a response, Defendant denies each and every allegation
7 contained therein.

8 59. In answer to Paragraph 59 of the Complaint, Defendant denies each and
9 every allegation contained therein.

10 60. In answer to Paragraph 60 of the Complaint, Defendant denies each and
11 every allegation contained therein.

12 61. In answer to Paragraph 61 of the Complaint, Defendant denies each and
13 every allegation contained therein.

14 62. In answer to Paragraph 62 of the Complaint, Defendant denies each and
15 every allegation contained therein.

16 63. In answer to Paragraph 63 of the Complaint, Defendant incorporates its
17 responses to Paragraphs 1 through 62 as though stated fully herein.

18 64. In answer to Paragraph 64, Defendant states that the referenced law
19 speaks for itself, the paragraph contains legal conclusions and no factual allegations,
20 and therefore require no response. To the extent that any averments in Paragraph 60
21 are deemed to require a response, Defendant denies each and every allegation
22 contained therein.

23 65. In answer to Paragraph 65 of the Complaint, Defendant denies each and
24 every allegation contained therein.

25 66. In answer to Paragraph 66 of the Complaint, Defendant denies each and
26 every allegation contained therein.

27 67. In answer to Paragraph 67 of the Complaint, Defendant denies each and
28 every allegation contained therein.

1 68. In answer to Paragraph 68 of the Complaint, Defendant denies each and
2 every allegation contained therein.

3 69. In answer to Paragraph 69 of the Complaint, Defendant denies each and
4 every allegation contained therein.

5 70. In answer to Paragraph 70 of the Complaint, Defendant denies each and
6 every allegation contained therein.

7 71. In answer to Paragraph 71 of the Complaint, Defendant incorporates its
8 responses to Paragraphs 1 through 70 as though stated fully herein.

9 72. In answer to Paragraph 72 of the Complaint, Defendant denies each and
10 every allegation contained therein.

11 73. In answer to Paragraph 73 of the Complaint, Defendant denies each and
12 every allegation contained therein.

13 74. In answer to Paragraph 74 and subparts (a) through (c) of the
14 Complaint, Defendant denies each and every allegation contained therein.

15 75. In answer to Paragraph 75 of the Complaint, Defendant denies each and
16 every allegation contained therein.

17 76. In answer to Paragraph 76 of the Complaint, Defendant incorporates its
18 responses to Paragraphs 1 through 75 as though stated fully herein.

19 77. In answer to Paragraph 77 of the Complaint, Defendant denies each and
20 every allegation contained therein.

21 78. In answer to Paragraph 78 of the Complaint, Defendant denies each and
22 every allegation contained therein.

23 79. In answer to Paragraph 79 of the Complaint, Defendant denies each and
24 every allegation contained therein.

25 80. In answer to Paragraph 80 of the Complaint, Defendant denies each and
26 every allegation contained therein.

27 81. In answer to Paragraph 81 of the Complaint, Defendant incorporates its
28 responses to Paragraphs 1 through 80 as though stated fully herein.

82. In answer to Paragraph 82 of the Complaint, Defendant denies each and every allegation contained therein.

83. In answer to Paragraph 83 of the Complaint, Defendant denies each and every allegation contained therein.

84. In answer to Paragraph 84 of the Complaint, Defendant denies each and every allegation contained therein.

85. In answer to Paragraph 85 of the Complaint, Defendant denies each and every allegation contained therein.

86. In answer to Paragraph 86 of the Complaint, Defendant incorporates its responses to Paragraphs 1 through 85 as though stated fully herein.

87. In answer to Paragraph 87 of the Complaint, Defendant denies each and every allegation contained therein.

88. In answer to Paragraph 88 of the Complaint, Defendant denies each and every allegation contained therein.

89. In answer to Paragraph 89 of the Complaint, Defendant denies each and every allegation contained therein.

PRAYER FOR RELIEF

90. Defendant need not address Plaintiff's prayer for relief. To the extent that any averment in Plaintiff's prayer is deemed to require a response, Defendant denies each and every allegation contained therein.

FIRST AFFIRMATIVE DEFENSE

1. The Complaint and each Cause of Action therein, should be dismissed for improper venue pursuant to 28 U.S.C. § 1406 (a).

SECOND AFFIRMATIVE DEFENSE

2. The venue for the Complaint and each Cause of Action therein, should be transferred to the U.S. District Court, Southern District of Iowa based on improper venue pursuant to 28 U.S.C. § 1406 (a).

THIRD AFFIRMATIVE DEFENSE

3. The venue for this Complaint and each Cause of Action therein, should be transferred to the U.S. District Court, Southern District of Iowa based the convenience of the parties, the witnesses and in the interests of justice pursuant to 28 U.S.C. § 1406 (a).

FOURTH AFFIRMATIVE DEFENSE

4. Plaintiff's claims are completely or partially barred because the Defendants' acts and omissions were motivated by factors other than unlawful harassment or retaliation.

FIFTH AFFIRMATIVE DEFENSE

5. Plaintiff's claim for Punitive Damages violates the Due Process and Excess of Fines clauses of the United States and California Constitutions.

SIXTH AFFIRMATIVE DEFENSE

6. Plaintiff's claims are barred, in whole or part, by the exclusive remedies provided by the California Worker's Compensation Act.

SEVENTH AFFIRMATIVE DEFENSE

7. Plaintiff's claims are barred, in whole or in part, to the extent she failed to timely exhaust all administrative remedies, including but not limited to the exhaustion requirements set forth in California *Government Code* §12940 et seq. and/or Title VII.

EIGHTH AFFIRMATIVE DEFENSE

8. Plaintiff's statutory claims are barred to the extent that any act complained of occurred more than one-year prior to her filing an administrative complaint with the California Department of Fair Employment & Housing.

NINTH AFFIRMATIVE DEFENSE

9. Plaintiff's common law claims are barred to the extent that any act occurred more than two years prior to the filing of his civil complaint.

TENTH AFFIRMATIVE DEFENSE

1 10. Plaintiff's claims are barred, in whole or in part, by the doctrine of
2 avoidable consequences.

3 **ELEVENTH AFFIRMATIVE DEFENSE**

4 11. Plaintiff's claims are barred, in whole or in part, by the doctrine of after
5 acquired evidence.

6 **TWELFTH AFFIRMATIVE DEFENSE**

7 12. Plaintiff's claims under the California Fair Employment & Housing
8 Act are barred to the extent they vary from the allegations of the administrative
9 charge filed with the appropriate agency.

10 **THIRTEENTH AFFIRMATIVE DEFENSE**

11 13. Plaintiff's claims are barred, in whole or in part, because the alleged
12 conduct of which Plaintiff complains, if committed, was made in good faith,
13 honestly, without malice, in the exercise of business judgment and for legitimate and
14 non-discriminatory reasons.

15 **FOURTEENTH AFFIRMATIVE DEFENSE**

16 14. Plaintiff's claims are barred, in whole or in part, by the doctrine of
17 unclean hands.

18 **FIFTEENTH AFFIRMATIVE DEFENSE**

19 15. Plaintiff's claims are barred, in whole or in part, because Defendants'
20 acts and omissions were motivated by factors other than unlawful harassment,
21 discrimination, retaliation or other illegal conduct and reasonable in response to a
22 legitimate business necessity.

23 **SIXTEENTH AFFIRMATIVE DEFENSE**

24 16. The Complaint and each Cause of Action therein, fail to state a claim
25 upon which relief can be granted.

SEVENTEENTH AFFIRMATIVE DEFENSE

17. Plaintiff's claims under the California Fair Employment & Housing Act are barred because Defendant is not a covered employer under the California Fair Employment & Housing Act.

EIGHTEENTH AFFIRMATIVE DEFENSE

18. Plaintiff is precluded from any recovery because Defendant did not engage in any severe and/or pervasive conduct such that it altered the conditions of Plaintiff's employment to create a hostile working environment.

NINETEENTH AFFIRMATIVE DEFENSE

19. Neither the Complaint nor any purported cause of action therein alleges facts sufficient to state claims against Defendant John Palmer in his individual capacity.

TWENTIETH AFFIRMATIVE DEFENSE

20. Defendant is informed and believes and thereon alleges that Plaintiff's claims for "waiting time penalties" under the Labor Code for untimely payment of wages are barred because Defendant did not willfully or intentionally withhold payment of wages.

TWENTY-FIRST AFFIRMATIVE DEFENSE

21. Defendant is informed and believes and thereon alleges that Plaintiff's claims for unpaid wages are barred because Defendant timely paid all wages owed to Plaintiff.

TWENTY-SECOND AFFIRMATIVE DEFENSE

22. Defendant is informed and believes and thereon alleges that Plaintiff's claim for emotional distress damages is barred because Defendant's conduct toward Plaintiff was not extreme or outrageous.

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1 WHEREFORE, Defendant prays for judgment as follows:

2 1. That Plaintiff take nothing by way of her Complaint;

3 2. For Defendants' costs of suit;

4 3. For Defendants' attorney's fees pursuant to the California Fair
5 Employment & Housing Act; and

6 4. For such other and further relief as the Court may deem proper.

7 **DEMAND FOR JURY TRIAL**

8 This answering Defendant hereby requests a jury trial in this action.

9
10 DATED: May 15, 2015

LEWIS BRISBOIS BISGAARD & SMITH LLP

11
12
13 By:


JOHN L. BARBER

LAURA J. ANSON

Attorneys for Defendant DEALER
MARKETING SERVICES, INC.

FEDERAL COURT PROOF OF SERVICE

COLLEEN SATRAGNI v. DEAL MARKETING SERVICES, INC., et al. ≈ Case No.
U.S.D.C., Central Case No. 5:15-cv-00913-JGB-SP

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

At the time of service, I was over 18 years of age and not a party to the action. My business address is 650 Town Center Drive, Suite 1400, Costa Mesa, CA 92626. I am employed in the office of a member of the bar of this Court at whose direction the service was made.

On May 15, 2015, I served the following document(s): **DEFENDANT DEALER MARKETING SERVICES, INC.'S ANSWER TO PLAINTIFF'S COMPLAINT**

I served the documents on the following persons at the following addresses (including fax numbers and e-mail addresses, if applicable):

Christopher B. Ellison, Esq.

**THE LAW OFFICE OF
ELLISON & ASSOCIATES**

8117 W. Manchester Ave., #158
Playa Del Rey, California 90293

Tel.: (310) 882-6239

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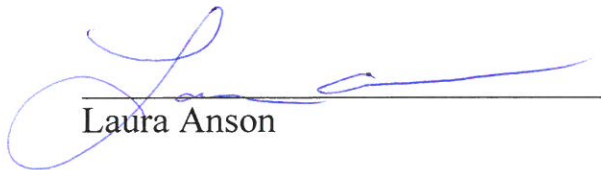
Attorney for Plaintiffs ROBERT LETTIS

The documents were served by the following means:

☒ (BY COURT'S CM/ECF SYSTEM) Pursuant to Local Rule, I electronically filed the documents with the Clerk of the Court using the CM/ECF system, which sent notification of that filing to the persons listed above.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on May 15, 2015, at Costa Mesa, California.



Laura Anson